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09/576,166	05/22/2000	Paul G. Ringhof	BOC9-1999-0054-US1	2270

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EXAMINER
NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
2154	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-38</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-38</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 38 are presented for consideration.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,654,456 [hereinafter as '456 patent]. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming common subject matter as follow:

As per claim 1, a programmable agent workstation system in a directory assistance system (DAS) network, comprising:

a JavaPhone means ...;

a PlusTcp means ...; and

a PlusTapi means ...;

wherein

said JavaPhone means provides ...;

said PlusTcp means provides ...;

said PlusTapi means ....

The claims of '456 patent do not specifically state the JavaPhone, PlusTcp, and PlusTapi

means as described in the claim 1 of instant application but it would have been obvious to a

person skill in the art to recognize that the two set of claims are similar because they performs

the means and functions which provide interactive IP telephony support with H.323 protocol.

As per independent claims 28 and 34, they are rejected under the judicially created

doctrine of obvious-type double patenting as claim 1 above.

As per dependent claims 2-27, 29-33 and 35-38, they are rejected for rejected under

judicially created doctrine of obvious-type double patenting as being unpatentable over claims 2-

10 of the '456 patent.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-7, 10-13, 16-19, 22-25, 28-31, 34-36, are rejected under 35 U.S.C. 103(a) as

being unpatentable over Beddus et al. [US Patent No 6,654,457], in view of Sassin et al. [US

Patent No 6,449,260].

5.   As per claim 1, Beddus discloses the invention substantially as claimed including a

programmable agent workstation system in a directory assistance system (DAS) network,

comprising:

        (a) a JavaPhone means [Figure 2; and col 2, lines 27-30];

        (b) a PlusTcp means [col 3, lines 34-41]; and

        (c) a PlusTapi means [Figure 2; and col 7, lines 39-42];

        wherein

        said JavaPhone means provides a JavaPhone with audio support in an Intelligent

Workstation Platform (IWSP) including audio controls/status and/or call controls/status [col 3,

lines 48-67];

        said PlusTcp means provides TCP/IP communication support for local socket

connections to said JavaPhone means, wherein the local socket connection is used for

communicating both audio and call control operations between the JavaPhone means and the

IWSP and a call director without the use of a Call Processing Gateway (CPG) and call

processing switch used to route telephony, while maintaining compatibility with the H.323

protocol [col 3, lines 24-41].

        Beddus does not specifically disclose

said PlusTapi means enumerates commands and data items to the IWSP to allow a

Directory Assistance (DA) operator to communicate with said JavaPhone means and perform

related audio and call control operations including all switch related messaging.

Sassin discloses

said PlusTapi means enumerates commands and data items to the IWSP to allow a

Directory Assistance (DA) operator to communicate with said JavaPhone means and perform

related audio and call control operations including all switch related messaging [col 4, lines 38-

col 5, lines 20].

It would have been obvious to a person skill in the art at the time the invention was made

to combine the teaching of Beddus and Sassin because Sassin's teaching would allow the system

to be more modular in order to reduce the cost of any one component but still be able to operate

in an integrated fashion [Sassin, col 1, lines 61-64].

6.   As per claim 2, Beddus discloses one or more components of said system is implemented

within an application programming interface (API) [col 6, lines 49-54].

7.   As per claims 3-5, Beddus discloses TCP/IP communication occurs between PC-to-

phone, phone-to-PC, and phone-to-phone endpoints [Figure 1; and col 3, lines 11-41].

8.   As per claim 6, Beddus discloses one or more components of said system is implemented

on a personal computer (PC) [col 3, lines 17-20].

9.   As per claim 7, Beddus discloses personal computer (PC) utilizes a graphical user

interface [col 7, lines 23-25].

10.   As per claim 10, Beddus discloses JavaPhone means further comprises one or more of the

following a volume up/down means; a microphone mute/unmute means; a raise/lower

microphone gain means; a headset unjacking detection means; a sign on/off control/status means;

a call arrival indication means; a call termination indication means; a call conferencing means; a

make busy control means; and a hold/unhold call control means [col 4, lines 38-43].

11.   As per claims 11-13, they are rejected for similar reasons as stated above in claims 2, 6,

and 7.

12.   As per claim 16, Beddus discloses one or more of the following a TcpOpen means; a

TcpClose means; a TcpSend means; a TcpRecv means; a TcpGetLastError means, and a

TcpGetErrorString means [Figure 4].

13.   As per claims 17-19, they are rejected for similar reasons as stated above in claims 2, 6,

and 7.

14.   As per claim 22, Beddus discloses a TapiMakeCall means, a TapiHoldCall means, a

TapiUnholdCall means; a TapiBlindXferCall means, a TapiRetrieveCall means, a

TapiDisconnect means, a TapiBlindConfCall means, a TapiLogon means, a TapiLogoff means, a

TapiDTMF means, a TapiNotReady means, a TapiReady means, a TapiPing means, a

TapiHoldToggle means, a TapiReadyToggle means, a TapiMuteToggle means, a TapiVolumeSet

means, a TapiSetProperty means, a TapiGetProperty means, a TapiShutdown means, a

TapiVolumeUp means, a TapiVolumeDown means, a TapiMicGainUp means, a

TapiMicGainDown means, a TapiMicGainSet means, and a TapiDisplayErrs means [col 1, lines

13-15].

15.   As per claims 23-25, they are rejected for similar reasons as stated above in claims 2, 6,

and 7.

16.   As per claim 28, it is rejected for similar reasons as stated above in claim 1. Furthermore,

Beddus discloses Voice Over IP (VoIP) [col 1, lines 38-39].

17.   As per claims 29-31, they are rejected for similar reasons as stated above in claims 2, 6,

and 7.

18.   As per claim 34, it is program product claimed of claim 28, it is rejected for similar

reasons as stated above in claim 28. Furthermore, Beddus discloses processing may be

performed synchronously and/or asynchronously [col 5, lines 62-65].

19.   As per claims 35, 36, they are rejected for similar reasons as stated above in claims 6, 7.

20.   Claims 8, 9, 14, 15, 20, 21, 26, 27, 32, 33, 37, 38, are rejected under 35 U.S.C. 103(a) as being unpatentable over Beddus et al. [US Patent No 6,654,457], in view of Sassin et al. [US Patent No 6,449,260], and further in view of Strickland et al. [US Patent No 5,956,024].

21.   As per claims 8 and 9, Beddus and Sassin do not specifically disclose graphical user interface utilizes a Microsoft Windows operating environment and an IBM AIX™ operating system. Strickland discloses graphical user interface utilizes a Microsoft Windows operating environment and an IBM AIX™ operating system [col 7, lines 41-45; and col 8, lines 6-11]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Beddus, Sassin and Strickland because Strickland's teaching of Windows and AIX™ operating system would allow users to have a graphical interface to operate in a more efficient manner.

22.   As per claims 14 and 15, they are rejected for similar reasons as stated above in claims 8 and 9.

23.   As per claims 20 and 21, they are rejected for similar reasons as stated above in claims 8 and 9.

24.   As per claims 26 and 27, they are rejected for similar reasons as stated above in claims 8 and 9.

25.   As per claims 32 and 33, they are rejected for similar reasons as stated above in claims 8

and 9.

26.   As per claims 37 and 38, they are rejected for similar reasons as stated above in claims 8

and 9.

27.   Applicant's arguments with respect to claims 1-38 have been considered but are moot in

view of the new ground(s) of rejection.

28.   A shortened statutory period for response to this action is set to expire **3 (three) months
and 0 (zero) days** from the mail date of this letter. Failure to respond within the
period for response will result in **ABANDONMENT** of the application (see 35 U.S.C
133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The

examiner can normally be reached on Monday – Friday (8:00 – 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (703) 305-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directly to the receptionist whose telephone number is (703) 305-3900.

Dustin Nguyen

JOHN FOLLANSBEE
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